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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,132	05/06/2004	David A. Giardino	CP-5165	7236
7590	08/29/2005			EXAMINER CHUKWURAH, NATHANIEL C
Joseph J. Christian Schmeiser, Olsen & Watts LLP Suite 201 3 Lear Jet Lane Latham, NY 12110			ART UNIT 3721	PAPER NUMBER
DATE MAILED: 08/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

8P

Office Action Summary	Application No.	Applicant(s)
	10/840,132	GIARDINO, DAVID A.
	Examiner Nathaniel C. Chukwurah	Art Unit 3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 - 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 May 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's affirmation of the election with traverse of Group I, claims 1-9, in the reply filed on 06/22/2005 is acknowledged. The traversal is on the ground(s) that a thorough search for the subject matter of any group of claims would encompass a search for the subject matter of the remaining claims, and thus the search and examination of the entire application could be made without serious burden to the examiner. This is not found persuasive because the different inventions are patentably distinct as set forth in the previous action and would have posed a serious burden on the examiner to search for all claims in the application. Furthermore, applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The requirement is still deemed proper and is therefore made FINAL.

Specification

2. Applicant is respectfully requested to amend "Cross-Reference to Related Application" in the specification to include the current status of the co-pending U.S. patent application Ser. No. 10/213,702, filed on August 5, 2002, now U.S. Pat. No. 6,823,949.

3. The disclosure is objected to because of the following informalities:

The "Summary of the Invention" should include:

A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace et al. (US 3,951,217) in view of Schoeps et al. (US 5,492,185).

With regard to claims 1 and 4, Wallace discloses a control device (back cap section 13) comprising a pressure regulator unit (29) including a pressure regulator valve (45) configured to limit a maximum pneumatic pressure provided to the motor (14) of an air impact wrench (col. 3, lines 23-42). The control device of Wallace lacks a torque limiting timing device for shutting off fluid flow to the motor after a predetermined time that torque applied by the tool has been reached.

However, Schoeps teaches a torque limiting device for an impulse wrench including a monitor (40) and a shut-off valve (31), wherein the torque limiting device is configured to shut off fluid flow to a motor (12) at a predetermined time (col. 3, lines 31-38) in order to prevent undesirable extra impulse and torque overshoot. Note that the predetermined time is the time when the impulse wrench has reached the desired tightening condition (col. 3, line 60 – col. 4, line 16).

Therefore, it would have been obvious to a skilled person in the art, at the time of the invention, to have modified the control device of Wallace by having provided a torque limiting device, as taught by Schoeps, in order to prevent undesirable extra impulse and torque overshoot.

With regard to claim 2, the modified control device of Wallace meets all of applicants claimed subject matter but lack the specific teaching of the predetermined time is user adjustable. However, Schoeps teaches that the torque limiting device (40) comprises data computing means for treating and computing received signals with desired target value (col. 3, lines 30-38), which inherently includes user adjustable torque level. Thus, the cut-off time can be adjusted by setting a torque level different from the desired torque level satisfying the tightening condition.

With regard to claim 3, the predetermined time is considered fixed to the reaching of the desired tightening condition.

With regard to claim 5, the modified control device of Wallace would include the shut-off valve (31) of the torque limiting device disclosed in the Schoeps reference.

With regard to claims 6-9, the modified control device of Wallace would be modular, releasable attached to the back of the air impact wrench as illustrated in Fig. 1; the modified control device is considered to be integrated with the air impact wrench as it is attached to the wrench, and is considered to be remote when it is detached from the wrench.

Response to Arguments

6. Applicant's arguments filed 06/22/2005 have been fully considered but they are not persuasive. Applicant contends that the combination of Wallace (US 3,951,217) and Schoeps (US 5,492,185) does not teach or suggest a "torque limiting timing device, configured to shut off fluid flow to said motor after a predetermined time that torque applied by the tool has been reached" as claimed in the amended claim 1. This is not found persuasive because the predetermined time is the time when the impulse wrench has reached the desired tightening condition (Schoeps, col. 3, line 60 – col. 4, line 16), which time includes instantaneously,

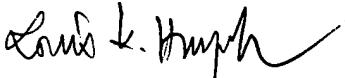
immediately after, or as long as the torque limiting device (40) finishes the comparison and send an electrical signal to the shut-off valve (31). The combination is still deemed proper and thus rejection maintained.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is 571-272-4457. The examiner can normally be reached on M-F from 6:00AM to 2:30PM.
10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NC
August 25, 2005


LOUIS K. HUYNH
PRIMARY EXAMINER